

### **REMARKS/ARGUMENTS**

This Amendment is being filed in response to the Office Action dated October 19, 2005. Reconsideration and allowance of the application in view of remarks to follow is respectfully requested.

Claims 1-19 are pending in this application of which Claims 1, 9, 10, 17 and 18 are independent claims.

In the Office Action, Claims 1-19 are rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 5,822,418 to Yacenda ("Yacenda") in view of U.S. Patent No. 5,031,228 to Lu ("Lu"). This rejection is respectfully traversed herein.

Claim 1 recites "generating an indicium that associates the known person with the respective region in which the known person is located in response to the identified known person from the processed image." (emphasis added)

The Examiner acknowledges that Yacenda "does not teach the use of images to identify known person from the processed image." OA, page 2, paragraph 4. Accordingly, since the reference fails to teach processing an image or images, it also does not teach generating an indicium which associates the identified person "from the processed image" with a particular location, as recited by claim 1.

To remedy the above-noted deficiencies of Yacenda, the Examiner cites Lu. Lu suggests using a system operable to identify a person or persons constituting a viewing audience in an unidentified location. Used for statistical purposes, Lu teaches a person-identifying system having a single camera which is installed in an unidentified location. Consequently, Lu is not concerned with associating a person with a particular location. Lu teaches associating a person or persons with his/her or their identities. What Lu does not teach or suggest is associating a person identified from a processed image with a particular location. Therefore, Lu, like Yacenda, does not teach generating an indicium associating a person from a processed image with the particular location.

The Examiner's concludes:

"It would have been obvious to one of ordinary skills in the art at the time the invention was made to incorporate the features ... as taught by Lu, in Yacenda's system in order to have an alternative method of location a person using cameras instead of using transceiver and remote badges. Furthermore, for each known person identified, Yacenda's system would obviously identify ... a distinctive

mark so that the PBX can connect the call to the extension associated with the identified person located at the specified telephone extensions." OA, page 2, second paragraph

By combining the cited references, the Examiner suggests replacing IR transceivers and badges of Yacenda with a camera of Lu. However, having the IR transceivers replaced in Yacenda leaves a combination of the cited references without a structural element operable to associate an extension (location) with the identified person since Lu does not suggest associating a person who is located from a processed image with a location. Contrary to the Examiner's statement, if a camera suggested by Lu were incorporated in Yacenda, locations of a person could not be specified rendering, thus, the telephone routing system of Yacenda ineffective. Accordingly, the cited combination falls well short of Claim 1 reciting "generating an indicium that associates the known person with the respective region in which the known person is located in response to the identified known person from the processed image." It appears that the Examiner completely ignores the implausible result of the proposed combination of Yacenda and Lu despite numerous arguments made to this effect by Applicant during a multi-year history of prosecution of the present application.

It is believed that the Examiner also neglects the applicable law. First, as repeatedly argued in previous communications by Applicant, there is no motivation for an artisan to utilize a camera of Lu in a system taught by Yacenda, since a combined structure would not be operable to associate a person identified from an image with a particular location. As a consequence, an artisan would not be motivated to combine the cited references since the operational principle of Yacenda would be compromised. (See, *In re Rouffet*, U. S. Court of Appeals Federal Circuit, U.S.P.Q. 2d, 1453, 1458.) Second, the only source that teaches how to identify a person from a processed image and associate the identified person with a location in which the image was captured is the present invention. Therefore, the Examiner's combination of the teachings of Yacenda and Lu can arrive at Applicants' invention as recited in Claim 1 only by using impermissible hindsight derived from the Applicant's invention. (See, *Smith Industries Medical Systems, Inc. v. Vital Signs, Inc.*, 183 D.3d 1347, 1356, 51 USPQ 1415, 1420-21 (Fed. Cir. 1999))

Accordingly, Claim 1 is patentable over Yacenda in view of Lu. Withdrawal and reconsideration of the 35 U.S.C. 103(a) rejection of Claim 1 are in order.

Claims 2-8 depend from Claim 1 and benefit from its patentability.

Independent Claim 9 has been amended to recite a system in which persons located from processed images are associated with respective regions. Claim 9, in essence, recites at least some of the limitations discussed in reference to Claim 1 and is patentable over a combination of cited references.

Independent Claim 10 has been amended to recite the inventive subject matter in clearer terms and include limitations substantially similar to at least some of the limitations of Claim 1 as discussed above. Accordingly, Claim 10 and Claims 11-16 depending from Claim 10 are patentable over the Yacenda/Lu combination.

Claim 17 has been amended to positively recite "identifying each of the number of regions in association with the persons detected from the captured images" and, based on the discussion related to Claim 1, is unobvious in view of the Yacenda/Lu combination.

Claim 18 stands rejected in light of the Examiner's assertion that "Yacenda teaches if no known persons are identified in any region, the control unit directs an incoming call to a region where any person is detected (Fig. 23A, 1838)." However, a review of the flow diagram shown in FIG. 23A of Yacenda makes clear that Yacenda shows that if no members of the group are detected, step 1840 indicates that a message is provided to the caller followed by a disconnect in step 1842. In fact, Yacenda is silent as to the subject matter of Claim 18.

The rejection of Claim 19 states that (emphasis provided) "Yacenda teaches if a known person is in a region wherein no phone is present, the control unit will direct an incoming call for that known person to an adjacent region where a phone is present (FIG. 24A, 1922)." However, a review of the flow diagram shown in FIG. 24A of Yacenda makes clear that, as a first matter, FIG. 24A addresses how a message may be routed to a called party, and is silent with regard to an incoming call. This is clear by the entry portion to the flow diagram that is labeled "MESSAGE" originating in FIG. 24 and is described in Col. 17, lines 31-52 wherein it is stated that (emphasis provided) "FIG. 24 illustrates an example of the optional flow for providing messages to individuals who are

unavailable or whose telephones are busy. **An unavailable individual is defined as an individual who is not located by the locator system, or does not answer an incoming call or who has activated the DND function."** It is clear from lines 48-51 of Yacenda that FIG. 24A merely shows a well-known voice mail function. Yacenda is silent as to the subject matter of Claim 19.

Accordingly, reconsideration and allowance of each of Claims 1-17 and Claims 18 and 19 are respectfully requested.

### **Conclusion**

Based on all of the above, it is respectfully submitted that the present application is in proper condition for allowance. Prompt and favorable action to this effect, and early passing of this application to issue, are respectfully urged.

Should the Examiner have any comments, questions, suggestions or objections, the Examiner is respectfully requested to telephone the undersigned in order to facilitate reaching a resolution of any outstanding issues.

Respectfully submitted,

By 

Yuri Kateshov, Reg. No. 34,466  
174 Ferndale Road  
Scarsdale, NY 10583  
Tel: 718 637-6027  
Fax: 914-723-6802  
e-mail: ykateshov@gmail.com